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TO SECSTATE WASHDC 8256

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 1244

PASS LABOR FOR SEGALL, PERSONS AND AVERY

E.O. 11652: GDS

TAGS: ILO AORG

SUBJ: ROUNDUP OF ILO WORKING PARTY ON STRUCTURE

REF: GENEVA 800

1. WORKING PARTY ON STRUCTURE COMPLETED ITS WORK ON FRIDAY, FEB 13, AT 11 PM GENEVA TIME. IT HAS REACHED NO AGREEMENT ON ANY OF THE ISSUES BEFORE IT AND, MOST IMPORTANT, WAS AT A COMPLETE STALEMATE ON ARTICLES 7 AND 36 OF THE ILO CONSTITUTION (I.E. NON-ELECTIVE SEATS FOR THE TEN STATES OF CHIEF INDUSTRIAL IMPORTANCE, AND THE REQUIRED RATIFICATION OF AMENDMENTS TO THE CONSTITUTION BY FIVE OF THOSE TEN STATES BEFORE THE AMENDMENTS COULD TAKE EFFECT). THE WPS DID NOT, REPEAT NOT, CALL FOR A FURTHER SESSION BEFORE THE 61 ST SESSION (JUNE 1976) OF THE ILO CONFERENCE.

2. THE FOLLOWING TEXT OF THE CONCLUSIONS OF THE 5TH SESSION OF THE WPS WAS NEGOTIATED DURING THE LAST SITTING OF THE WORKING PARTY:

"1. THE WORKING PARTY ON STRUCTURE RESUMED ITS DISCUSSIONS ON QUESTIONS ON WHICH IT HAD BEEN UNABLE TO REACH FINAL AGREEMENT

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AT ITS PREVIOUS SESSION, AND ON THOSE WHICH HAD NOT YET BEEN FULLY DISCUSSED.

"2. THE WORKING PARTY HEARD THE REPORT OF THE GOVERNING GROUP WHICH HAD MET FROM 2-6 FEB 1976 AND WHICH EXAMINED VARIOUS PROPOSALS SUMMITTED BY THE INTERESTED PARTIES ON ARTICLE 7 AND 36 OF THE CONSTITUTION. IN THE COURSE OF THE DISCUSSIONS OF THE WORKING PARTY THE FOLLOWING QUESTIONS WERE ALSO RAISED: COMPOSITION OF THE NON-GOVERNMENTAL GROUPS, QUORUM, RESOLUTIONS PROCEDURE AND REPRESENTATION OF MEMBER STATES BY OBSERVERS AT MEETING OF THE ILO. EFFORTS WERE MADE TO FIND COMMON GROUND BUT IT DID NOT PROVE POSSIBLE TO FIND ACCEPTABLE FORMULAE. "THE WORKING PARTY NONETHELESS HOLDS THE HOPE THAT IF EFFORTS CONTINUE TO BE MADE IN AN ATMOSPHERE OF GOODWILL AND MUTUAL UNDERSTANDING IT SHOULD NOT BE IMPOSSIBLE IN THE END TO REACH AGREEMENT".

3. THE STATE OF PLAY ON EACH OF THE ISSUES REFERRED TO IN THE ABOVE QUOTED STATEMENT WAS AS FOLLOWS:

A. ARTICLES 7 AND 36. THIS ENDED IN COMPLETE STALEMENT. THE DEVELOPING COUNTRIES REVERTED TO THEIR INSISTENCE ON THE ABOLITION OF THE NON-ELECTIVE SEATS. THEIR ONLY CONCESSION TO IMMEDIATE ABOLITION WAS TO SUGGEST THEY BE PHASED OUT OVER THE NEXT THREE BG ELECTIONS, AS REPORTED REFTEL. THE "INDUSTRIALIZED COUNTRIES" SOUGHT TO ACHIEVE THE AGREEMENT OF THE DEVELOPING COUNTRIES TO AN ELECTION SYSTEM WHICH PROVIDED FOR THE CONTINUITY OF ELECTIVE MEMBERSHIP OF THE TEN STATES, AS IDENTIFIED BY THE CRITERIA CURRENTLY IN USE FOR THE DETERMINATION OF INDUSTRIAL IMPORTANCE, BUT THIS WAS FLATLY REJECTED. THE EASTERN EUROPEANS SOUGHT TO GET AGREEMENT TO SOME REFERENCE TO THE IMPORTANCE OF "EQUITABLE GEOGRAPHIC DISTRIBUTION" IN ALL THREE GROUPS. THIS WENT DOWN THE DRAIN WITH THE IMPASSE OVER THE NON-ELECTIVE SEATS ISSUE. COMMENT: IN THE OPINION OF USDEL, WESTERN EUROPEANS, WHO ALLEGE GREAT CONCERN OVER THREAT OF THIRD WORLD TO CALL FOR A CONSTITUTIONAL CONFERENCE AS THE NEXT STEP IN VIEW OF THIS IMPASSE, AND WHO WISH TO AVOID THIS BY COMING FORWARD WITH FURTHER COMPROMISE PROPOSALS AT THE ILO CONFERENCE, MAY WELL REVERT TO THEIR PROPOSALS FOR 1) THE ENLARGEMENT OF THE BG; 2) THE ENLARGEMENT OF THE NUMBER OF "SEATS OF CONTINUITY" (WHETHER NON-ELECTIVE OR ELECTIVE) TO INCLUDE SUCH SEATS FOR ALL REGIONS; AND 3) THE GEOGRAPHIC ALLOCATION OF ALL GOVERNING SEATS ON THE BG.

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USDEL HAS SOUGHT TO DISCOURAGE THIS, ND HAS TRIED TO ASSURE THEM THAT THEY ARE OVER REACTING TO THE "THREAT" OF A "CONSTITUTIONAL CONFERENCE". END COMMENT.

B. COMPOSITION OF NON-GOVERNMENT GROUPS. OUTSIDE OF USSR GENERAL STATEMENTS IN THE GOVERNMENT GROUP OF THE WPS, AND IN ITS TRIPARTITE PLENARY SITTINGS, THIS WAS CONFINED TO DISCUSSIONS WITHIN THE EMPLOYER GROUP OF THE WPS. NO CONCLUSIONS, MUCH LESS AGREEMENTS, EMERGED. THIS ISSUE, THEREFORE, AMONG THE CONTINUING UNRESOLVED ISSUES OF STRUCTURE.

C. QUORUM. NO FURTHER CONSIDERATION OF THIS ISSUE WAS UNDER

TAKEN BY THE WPS. THE WORKER'S GROUP SPOKESMAN REAFFIRMED THAT GROUP'S PROPOSAL OF THE NOVEMBER SESSION, BUT NO WPS MEMBERS, INCLUDING THE WORKERS, PROPOSED FURTHER CONSIDERATION OF THE QUORUM ISSUE BY THIS SESSION OF THE WPS.

D. RESOLUTIONS PROCEDURE. THIS WAS THE ONE ISSUE WHICH SHOWED THE GREATEST PROMISE OF SOME PROGRESS, THOUGH NO AGREEMENT WAS REACHED BY THE END OF THE 5TH SESSION OF THE WPS. AN OFFICIAL TRIPARTITE WORKING GROUP OF THE WPS WAS APPOINTED, AND MET TWICE, ON THIS ISSUE (THE VENEZUELAN, IRANIAN, AND US GOVERNMENTS WHICH HAD INTRODUCED PROPOSALS, AND TWO MEMBERS EACH FROM THE WORKERS AND EMPLOYERS, I.E. MUHR (FRG) AND PALMER (SIERRA LEONE) OF THE WORKERS, AND VITIAC (ARGENTINA) AND SMITH (US) OF THE EMPLOYERS. THIS GROUP AGREED THAT THE THREE GOVERNMENT REPS SHOULD, WITH THE ASSISTANCE OF THE ILO LEGAL ADVISER, SEE IF A CONSOLIDATED TEXT REFLECTING THE PRINCIPLE OBJECTIVES IN THE PROPOSALS OF EACH COULD BE DEVELOPED AT ITS SECOND MEETING, THE TRIPARTITE WORKING GROUP REVIEWED A TEXT PREPARED BY THE USG WITH THE ASSISTANCE BY THE LEGAL ADVISER, BASED ON CONSULTATIONS WHICH THE THREE GOVERNMENT REPS HAD HAD IN THE LEGAL ADVISER'S OFFICE. THIS TEXT, WHICH THE WPS DID NOT HAVE TIME TO CONSIDER, AND WHICH THE VENEZUELAN AND IRANIAN REPS DISCUSSED WITH THEIR THIRD WORLD COLLEAGUES BUT MAINTAINED WAS A USG TEXT, WAS NOT ADOPTED BY THE TRIPARTITE WORKING GROUP. THE GROUP, HOWEVER, AGREED THAT THE TEXT, ALONG WITH THE ORIGINAL TEXTS OF THE THREE GOVERNMENT REPS, SHOULD SERVE AS THE BASIS FOR FURTHER CONSIDERATION OF THE RESOLUTIONS PROCEDURE. THE AMALGAMATED TEXT COVERS THE FOLLOWING OBJECTIVES OF THE OTHER TWO GOVERNMENTS AND OF THE WORKER GROUP: 1) TRANSFERRING RESPONSIBILITY FOR INITIAL PRELIMINARY WITHHOLDING OF CIRCULATION FROM THE DG TO THE OFFICERS OF THE GB; 2) PROVIDING FOR FINAL APPEAL TO THE OFFICERS OF THE CONFERENCE (UNDER STRICT PROCEDURES TO LIMIT THE CONFIDENTIAL
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APPEAL AND DECISION SOLELY TO THE CRITERIA FOR RECEIVABILITY); AND 3) PROVIDING A SEPARATE PROCEDURE UNDER WHICH ANY DELEGATE TO THE CONFERENCE COULD APPEAL TO THE OFFICERS OF THE CONFERENCE FOR THE SUSPENSION OF CONSIDERATION OF ANY RESOLUTION ALREADY CIRCULATED TO WHICH THE DELEGATE OBJECTS. USG AMALGAMATED TEXT IS AS FOLLOWS:

"ARTICLE 17, PARA 1(2) AND (3) OF THE STANDING ORDERS OF THE CONFERENCE SHOULD BE REPLACED BY THE FOLLOWING TEXT:

"2) THE OFFICERS OF THE GOVERNING BODY SHALL BE INFORMED OF THE CONTENT OF ALL RESOLUTIONS DEPOSITED IN ACCORDANCE WITH SUBA PARA (1).

"(3) COPIES OF ALL RESOLUTIONS SO DEPOSITED SHALL BE AVAILABLE TO DELEGATES AT THE INTERNATIONAL LABOUR OFFICE NOT MORE THAN 48 HOURS AFTER THE EXPIRY OF THE TIME LIMIT LAID DOWN IN SUB- PARA (1); PROVIDED THAT THE OFFICERS OF THE GOVERNING BODY SHALL PROVISIONALLY WITHHOLD CIRCULATION OF THE TEXT OF ANY RESOLUTION WHICH (A) PROPOSES THE CONDEMNATION OF A MEMBER STATE OR STATES BY NAME, OR OF THE AUTHORITIES OR POLICIES

THEREOF, FOR ALLEGEDLY PURSUING POLICIES OR PRACTICES NOT SPECIFICALLY RELATED TO EXISTING PROVISIONS OF ILO CONVENTIONS OR RECOMMENDATIONS, OR (B) PROPOSES THE CONDEMNATION OF A MEMBER STATE OR STATES BY NAME, OR OF THE AUTHORITIES OR POLICIES THEREOF, FOR ALLEGED VIOLATIONS OF ILO STANDARDS CONTAINED IN ILO CONVENTIONS AND RECOMMENDATIONS BEFORE THE EXAMINATION OF THOSE ALLEGATIONS UNDER ESTABLISHED ILO PROCEDURES HAS BEEN INITIATED AND COMPLETED AND THE ALLEGATIONS SO EXAMINED HAVE BEEN SUSTAINED IN THE REPORT THEREOF.

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"(4) WHEN THE CIRCULATION OF ANY RESOLUTION HAS BEEN WITHHELD IN PURSUANCE OF SUB-PARA (3) -(A) THE OFFICERS OF THE GOVERNING BODY SHALL IMMEDIATELY PREPARE A REPORT SETTING OUT - (1) IN RESPECT OF A RESOLUTION WITHHELD IN PURSUANCE OF SUB-PARA (3) (A), THE FACTS REGARDING THE RELATIONSHIP BETWEEN THE RESOLUTION AND EXISTING INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS; (II) IN RESPECT OF A RESOLUTION WITHHELD IN PURSUANCE

OF SUB-PARA (3) (B), THE FACTS REGARDING ANY EXAMINATION UNDER ESTABLISHED ILO PROCEDURES OF THE VIOLATIONS ALLEGED THEREIN ; (B) THE REPORT OF THE OFFICERS OF THE GOVERNING BODY SHALL BE SUBMITTED TO A PANEL OF THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS CONSISTING OF THE CHAIRMAN OF THE COMMITTEE AND OF TWO OTHER MEMBERS APPOINTED WITH SUBSTITUTES, AS NECESSARY, ANNUALLY BY THE COMMITTEE FOR THAT PURPOSE; (C) THE PANEL OF THE COMMITTEE OF EXPERTS SHALL

DETERMINE WHETHER THE RESOLUTION FALLS WITHIN THE TERMS OF SUB-PARA (3) (A) OR (B) AND SHALL ESTABLISH A REPORT SETTING OUT THE REASONS FOR ITS CONCLUSIONS; (D) THE REPORT OF THE PANEL OF THE COMMITTEE OF EXPERTS SHALL BE BROUGHT TO THE ATTENTION OF THE OFFICERS OF THE CONFERENCE, OF THE AUTHOR OR AUTHORS OF THE RESOLUTION, AND OF THE DELEGATES OF THE MEMBER STATE OR STATES CONCERNED BY THE TEXT OF THE RESOLUTION; (E) IT SHALL BE OPEN TO THE AUTHOR OR AUTHORS OF THE RESOLUTION, OR TO A DELEGATE OF THE MEMBER STATE OR STATES CONCERNED BY THE TEXT OF THE RES, LIMITED OFFICIAL USE

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TO APPEAL TO THE OFFICERS OF THE CONFERENCE AGAINST THE DETERMINATION OF THE PANEL OF THE COMMITTEE OF EXPERTS, SPECIFYING IN WRITING THE PARTICULAR POINTS IN THE REPORT OF THE PANEL WHICH ARE ALLEGED TO BE UNFOUNDED; IN SUCH CASE THE OFFICERS SHALL MAKE A FINAL DETERMINATION SOLELY ON THE BASIS OF CONSIDERATION OF THESE POINTS AND SHALL ESTABLISH A REPORT SETTING OUT THE REASONS FOR THEIR CONCLUSIONS, WHICH SHALL BE BROUGHT TO THE ATTENTION OF THE AUTHOR OR AUTHORS OF THE RES, AND OF THE DELS OF THE MEMBER STATE OR STATES CONCERNED BY THE TEXT OF THE RES; (F) A RES DETERMINED TO FALL WITHIN THE TERMS OF SUB-PARA (3) (A) OR (B) SHALL NEITHER BE REFERRED TO THE RESOLUTIONS COMMITTEE NOR MOVED AT ANY SITTING OF THE CONFERENCE; A RES DETERMINED NOT TO FALL WITHIN THE TERMS OF SUB-PARA (3) (A) OR (B) SHALL BE IMMEDIATELY REFERRED TO THE RESOLUTIONS COMMITTEE; (G) REFERENCE TO THE RESOLUTIONS COMMITTEE OF ANY RES WHICH HAD BEEN PROVISIONALLY WITHHELD SHALL BE ACCOMPANIED BY THE VARIOUS DOCUMENTS ON WHICH THE CONSIDERATION OF ITS RECEIVABILITY WAS BASED.

"(5) IT SHALL ALSO BE OPEN TO AND DEL TO THE CONFERENCE TO SUBMIT TO THE OFFICERS OF THE CONFERENCE, IN WRITING, AN OBJECTION TO THE TERMS OF A PARTICULAR RESOLUTION. IN SUCH CASE, THE OFFICERS OF THE CONFERENCE SHALL DETERMINE THE ADMISSIBILITY OF THE RES; THEY MAY, WHERE APPROPRIATE, GIVE THE AUTHOR OR AUTHORS OF THE RES AN OPPORTUNITY TO AMEND IT. THE RESOLUTION SHALL NOT BE REFERRED TO THE RESOLUTIONS COMMITTEE NOR MOVED AT ANY SITTING OF THE CONFERENCE UNTIL THE OFFICERS HAVE MADE THEIR DETERMINATION, AND UNLESS THEY HAVE DECIDED THAT THE RESOLUTION IS ADMISSIBLE. THE OFFICERS SHALL ESTABLISH A REPORT SETTING OUT THE REASONS FOR THEIR CONCLUSION; THAT REPORT SHALL BE BROUGHT TO THE ATTENTION OF THE AUTHOR OR AUTHORS OF THE RES AND OF THE DEL WHO APPEALED AND, IF THE RES IS DECLARED ADMISSIBLE, SHALL BE TRANSMITTED TO THE RESOLUTIONS COMMITTEE TOGETHER WITH THE TEXT OF THE RES.

"(6) ALL DECISIONS IN PURSUANCE OF SUB-PARA (3), (4) AND (5) SHALL BE TAKEN BY A SIMPLE MAJORTIY."

E. REPRESENTATION OF MEMBER STATES BY OBSERVERS AT ILO MEETINGS.
THIS SUBJECT WAS INTRODUCED IN THE WPS BY A SPANISH
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PROPOSAL THAT ALL ILO MEMBER STATES SHOULD HAVE THE RIGHT TO ATTEND SESSIONS OF THE GB AS OBSERVERS, WITH THE RIGHT TO SPEAK. THIS, OF COURSE, WOULD BE SYNONYMOUS WITH DEPUTY MEMBERSHIP ON THE GB. IN PRACTICE, THEREFORE IT WOULD INCREASE THE GOVERNMENT MEMBERSHIP OF THE GB TO ALL ILO MEMBER STATES. USDEL OPPOSED THIS, BUT DID RECOGNIZE THAT DUE PROCESS DID REQUIRE THE AMENDMENT OF PRESENT PRACTICE IN ONE RESPECT. ART 26, PARA 5, OF THE ILO CONSTITUTION PROVIDES THAT WHEN A COMPLAINT AGAINST A MEMBER STATE IS CONSIDERED BY THE GB, THE GOVERNMENT OF SUCH STATE AS IS NOT A GOVERNMENT MEMBER OF THE GB SHALL BE INVITED "TO TAKE PART IN THE PROCEEDINGS OF THE GB WHILE THE MATTER IS UNDER CONSIDERATION." HOWEVER, THE GOVERNMENTS OF MEMBER STATES NOT ON THE GB MAY NOT, REPEAT NOT, SPEAK IN THE GB WHEN ALLEGATIONS OF VIOLATIONS OF TRADE UNION RIGHTS, FILED WITH THE GB COMMITTEE ON FREEDOM OF ASSOCIATION, ARE CONSIDERED BY THE GB. USDEL THEREFORE PROPOSED THAT THE GB CONSIDER REVISING ITS PROCEDURES TO GRANT, IN RESPECT OF FREEDOM OF ASSOCIATION CASES, THE SAME RIGHTS TO GOVERNMENTS AS ARE STIPULATED IN ART 26 CASES. HERE, AGAIN, NO DECISION WAS REACHED. BUT THE LOGIC OF THE PROPOSAL WAS WIDELY SUPPORTED, AND THE SUBJECT CAN BE RAISED IN THE GB BY ANY MEMBER OR DEPUTY MEMBER THEREOF.

4. COMMENT: USDEL BELIEVES THAT THE CURRENT STALEMATE REPRESENTS, FOR THE FIRST TIME, THE RECOGNITION BY OUR "FRIENDS" (I.E. THE WE AND CANADIAN GOVERNMENTS) THAT WE ARE APPROACHING THE POINT WHERE FURTHER CONCESSIONS WILL ENDANGER THE BASIC ILO PRINCIPLES WHICH THEY, AS WELL AS WE, INSIST BE MAINTAINED. HOWEVER, USDEL ALSO SENSES THAT, WHEN DISCUSSIONS ARE RESUMED AT THE 1976 ILO CONFERENCE, THE WE GOVERNMENTS WILL WISH TO REINTRODUCE PROPOSALS FOR THE ENLARGEMENT OF THE GB AND A FORMULA FOR THE GEOGRAPHIC ALLOCATION OF GOVERNMENT SEATS AMONG THAT LARGER MEMBERSHIP, IN ORDER TO: A) ATTRACT THE USSR INTO THE "INDUSTRIALIZED COUNTRY" GROUP, AND B) TO AVOID A CALL BY THE THIRD WORLD FOR A CONSTITUTIONAL CONFERENCE. IT THEREFORE WILL BE NECESSARY FOR THE USG TO CONTINUE ITS CONSULTATIONS WITH THE WE AND CANADIAN GOVERNMENTS OF THE CONSEQUENCES FOR THE NON-GOVERNMENT GROUPS OF A FORMULA FOR THE GEOGRAPHIC ALLOCATION OF GB SEATS, AND ON THE UNLIKELIHOOD THAT A CONSTITUTIONAL CONFERENCE -- IF INDEED IT COULD BE CALLED AND ORGANIZED -- COULD ACHIEVE AND PUT INTO EFFECT THE EXTREME AMENDMENTS TO THE ILO
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CONSTITUTION WHICH ARE THREATENED BY THE THIRD WORLD. END
COMMENT. DALE

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